

Ernie Fletcher
Governor

LaJuana S. Wilcher
Secretary
Environmental and Public
Protection Cabinet



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Environmental Quality Commission

Lindell Ormsbee, Chair, *Lexington*
Betsy Bennett, Vice-Chair, *Louisville*
Patty Wallace, *Louisa*
Gary Revlett, *Shelbyville*
Gordon Garner, *Prospect*
Eugene Zick, *Russellville*
Laura Knoth, *Grand Rivers*

Leslie Cole, *Executive Director*

KENTUCKY ENVIRONMENTAL QUALITY COMMISSION *RESOLUTION*

Kentucky Comprehensive Energy Plan

Whereas, energy is vital to a modern economy to heat and light our homes, to fuel our cars and to power our businesses; and

Whereas, Kentucky's Comprehensive Energy Strategy, released in February 2005, provides a framework to guide energy development into the next century; and

Whereas, the strategy recognizes that no single solution can meet our society's future energy needs and that energy security will come from a mix of diverse energy technologies and sources; and

Whereas, traditional resources such as oil, natural gas and coal have been and will continue to play a role in meeting the state's and the nation's energy needs and at the same time, resources such as energy efficiency, solar, wind, geothermal, biodiesel and biomass provide Kentucky with opportunities to develop a clean, secure, and diversified energy portfolio for the future;

Now therefore be it resolved by the Kentucky Environmental Quality Commission that

- (1) Governor Ernie Fletcher, Secretary LaJuana Wilcher, Secretary James Host and the other members of the Energy Task Force be commended for their leadership in developing the state's first comprehensive energy strategy.
- (2) EQC is proud to lend its support to this historic effort and is especially pleased to see that the strategy places emphasis on energy efficiency and conservation as well as new cleaner energy systems and renewable energy sources in Kentucky.
- (3) The Energy Strategy provides a tremendous opportunity for the state to stimulate the growth of renewable energy in Kentucky and EQC requests that policymakers place a high priority in advancing the use of renewable energy sources of wind, solar as well as biodiesel fuels by implementing supportive state policies, by reducing barriers to the adoption of renewable technologies and by supporting individual, business and government investment in renewables.
- (4) The attached concerns expressed by EQC Commissioner Patty Wallace be considered by the Environmental and Public Protection Cabinet.

A handwritten signature in black ink, appearing to read "Lindell Ormsbee".

Chair, Environmental Quality Commission

Date May 26, 2005

Unanimously passed May 26, 2005

EQC Commissioners present and voting:

Lindell Ormsbee, Chair

Betsy Bennett, Vice-Chair

Gordon Garner

Patty Wallace

Eugene Zick

Gary Revlett

Attachment to EQC Comprehensive Energy Plan Resolution

May 26, 2005

Comments submitted by Patty Wallace, EQC Commissioner on the energy plan and additional areas of focus that are needed.

Create Incentives for Cleaner Technologies

- Create incentives to encourage investment and deployment of new coal conversion technologies. Don't give away tax breaks simply for applying best available technology, since that is what the law requires. Give breaks for doing more than the law requires to control greenhouse gases and mercury.
- The state has numerous incentives in law for use of fossil fuels – where are comparable incentives for energy efficiency and diversification.

Broaden PSC Mandate to Consider Full Costs in Approving Utility Plans

- Broaden Public Service Commission's mandate to assure that the ecological and social impacts of energy choices are part of its consideration of "cost" in reviewing new energy projects.

Improve Mining Industry Accountability

- Improve coal mine accountability by directing the regulatory agencies to require coal companies to:
 - minimize placement of spoil in or near waters of the United States through better mine sequencing and planning, through disposal on pre-existing benches, through side-fill construction and through constructed, compacted fills;
 - manage coal processing wastes that do not rely on embankment dams made of coarse coal refuse but instead backstow mine wastes into mine voids, dry filter press, and otherwise manage wastes to avoid impoundment failures;
 - require underground mine planning to avoid protected areas and to minimize future subsidence;
 - coal transfer from mine-site to market to minimize disruption to communities and relieve stress on minor roads;
 - mineral resource development that assure fairness to all holders of interest in property and avoid costly title battles and negative public perception through minor-interest "broad-forming;"
 - collection of realistic and adequate biological, hydrologic, and geologic information to avoid impacts from mining and waste disposal;
 - Assure that any state-lead Section 404 program includes state regulations comparable to the federal Endangered Species Act, National Environmental Policy Act and Corps of Engineers "public interest" review.

Adopt Comprehensive Regulations for Oil and Gas Development

- Development and implementation of the comprehensive environmental and landowner protection program for oil and gas development was directed by the legislature, but is overdue, and needed now since the demand for new oil and gas wells is increasing.
- Elimination of the power of eminent domain for private oil and gas companies, in order to assure proper respect for the rights of private and public landowners and to require fair dealing by companies;
- A focused, comprehensive program to assess the extent of and to require proper management of NORM waste contamination associated with oilfield production.

Budget Adequacy

- The budgetary and management situation within the regulatory agencies must be addressed. In order to assure that energy development, transportation, conversion and waste disposal are properly managed to minimize impacts, agencies must have the resources necessary to fully implement and administer environmental and workplace safety and health programs, and systems for managing compliance, permitting and enforcement information must be such that they facilitate rather than hinder effective delivery of the investigative, licensure and enforcement functions of those agencies. Outsourcing essential government functions such as permitting is very troublesome.